

# Notice of Allowability

Application No.

10/627,051

Examiner

Richard M. Lorence

Applicant(s)

ZIELES ET AL.

Art Unit

3681

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 13 December 2004.
2. ☒ The allowed claim(s) is/are 1-26.
3. ☒ The drawings filed on 13 December 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### **REASONS FOR ALLOWANCE**

The amendment filed on December 13, 2004 has been entered. The abstract, specification and claims 18 and 23 have been amended.

The replacement drawing sheets filed on December 13, 2004 are acceptable.

Claims 1-26 are allowed.

The following is an examiner's statement of reasons for allowance:

None of the prior art of record shows or suggests a method comprising the steps of detecting a failure of a throttle signal and incrementally adjusting the amount of fuel provided to an internal combustion engine together with the other steps recited in claim 1, and particularly wherein the step of incrementally adjusting the amount of fuel is carried out as a function of an idle status signal and the rotational speed of the engine in response to the failure.

Nor does the prior art of record show or suggest a method comprising the step of operating an engine together with the other steps recited in claim 9, and particularly wherein after failure of a first operator-adjusted fueling control the operating step is performed in response to a second operator-adjusted fueling control to move the vehicle at a speed greater than permitted by the first operator-adjusted fueling control.

Nor does the prior art of record show or suggest an apparatus comprising the specified controller together with the other structure set forth in claim 13, and particularly wherein the controller is operable to regulate engine operation in an accommodation mode in response to a detected failure of a throttle control, and further

being responsive to the cruise control and vehicle speed to permit engine speed greater than with the throttle control during operation in the accommodation mode.

Nor does the prior art of record show or suggest a method comprising the step of fueling an engine together with the other steps recited in claim 18, and particularly wherein fueling of the engine based on the limp-home mode is carried out in accordance with the idle status and the rotational speed of the engine.

Nor does the prior art of record show or suggest an apparatus comprising the specified controller together with the other structure set forth in claim 23, and particularly wherein the controller is operable to control the engine in a failure accommodation mode in response to a detected failure of a throttle control, and further to generate an engine fueling signal as a function of an idle status signal and the rotational speed of the engine during the failure accommodation mode.


Nor does the prior art of record show or suggest an apparatus comprising the specified operating means together with the other structure set forth in claim 26, and particularly wherein the operating means operates the engine in a limp-home mode in response to a detected failure of a throttle control in accordance with the idle position, the rotational speed of the engine and the brake status.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard M. Lorence whose telephone number is (703) 308-3062. The examiner can normally be reached on Mondays through Fridays from 9:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (703) 308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Richard M. Lorence  
Primary Examiner  
Art Unit 3681

Lorence/rml